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TO RUCNSAD/SOUTHERN AFRICAN DEVELOPMENT COMMUNITY PRIORITY
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INFO RUCNSAD/SOUTHERN AFRICAN DEVELOPMENT COMMUNITY
RUEHUJA/AMEMBASSY ABUJA 1431
RUEHAR/AMEMBASSY ACCRA 1286
RUEHDS/AMEMBASSY ADDIS ABABA 1435
RUEHBY/AMEMBASSY CANBERRA 0696
RUEHDK/AMEMBASSY DAKAR 1061
RUEHKM/AMEMBASSY KAMPALA 1489
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RUEHGV/USMISSION GENEVA 0622
RHEHAAA/NSC WASHDC
RUCNDT/USMISSION USUN NEW YORK 1651
RUEKJCS/JOINT STAFF WASHDC
RUEHC/DEPT OF LABOR WASHDC
RUEATRS/DEPT OF TREASURY WASHDC
RUEFDIA/DIA WASHDC//DHO-7//
RUCPDOC/DEPT OF COMMERCE WASHDC
RUFOADA/JAC MOLESWORTH RAF MOLESWORTH UK//DOOC/ECMO/CC/DAO/DOB/DOI//
RUEPGBA/CDR USEUCOM INTEL VAIHINGEN GE//ECJ23-CH/ECJ5M//

UNCLAS SECTION 01 OF 12 HARARE 000014

SIPDIS

SENSITIVE
SIPDIS

AF/S FOR S. HILL
NSC FOR SENIOR AFRICA DIRECTOR B. PITTMAN
STATE PASS TO USAID FOR M. COPSON AND E.LOKEN
TREASURY FOR J. RALYEA AND T.RAND
COMMERCE FOR BECKY ERKUL
ADDIS ABABA FOR USAU
ADDIS ABABA FOR ACSS

E.O. 12958: N/A
TAGS: EINV EFIN ETRD ELAB KTDB PGOV
SUBJECT: ZIMBABWE 2007 INVESTMENT CLIMATE
STATEMENT-CORRECTED COPY

REF: 2006 STATE 178303

¶1. (U) The Government of Zimbabwe's corruption and mismanagement have severely crippled the local economy making it unlikely to attract or absorb significant foreign direct investment in 2007. GDP has declined by 40 percent in the past 6 years, the largest peacetime drop ever recorded. Inflation is estimated at 2000 percent, the highest in the world, and is projected to explode in 2007. Government policies have seriously eroded the rule-of-law and put private property rights at grave risk causing many investors, foreign and domestic to leave the economy. Absent serious reforms, which are unlikely, investment prospects, along with the country,s economic prospects, are bound to remain dismal.

¶2. (U) Foreign investors will find few if any sectors appealing at this time. The World Bank and International Finance Corporation's "Doing Business in 2007" survey ranked Zimbabwe 153 out of 175 countries considered and one of the two worst in southern Africa. Further illustrative of the abysmal investment climate, Zimbabwe for the second year in a row was last out of 64 regions and countries surveyed in the Vancouver-based Fraser Institutes 2005-2006 report on mineral policy investor friendliness. Moreover, its last-place score was the lowest in the survey's history.

Openness to Foreign Investment

¶3. (U) The government's command and control tendencies and its intervention in many sectors makes Zimbabwe generally unwelcoming to foreign investment, particularly from Western countries. Nonetheless, a few U.S. multinationals maintain subsidiaries in the country, largely holdovers from better years a decade ago. Many others sell their products through certified dealers.

¶4. (U) The government's priority sectors for foreign investment are manufacturing, mining and infrastructure development for tourism. In these sectors foreign investors are free to take up 100 percent ownership. The government in 2006 discussed new mining legislation that would require foreign investors to cede a 51 percent share in foreign-owned mines to the government, 25 percent of which would be non-contributory. The legislation, however, has not yet been formally proposed and, while the government appears determined to seize some share, it may be back away from the 51 percent marker. In the services sector foreign investors are allowed to take a maximum 70 percent share holding.

¶5. (U) The government reserves several sectors for local investors. Foreign investors wishing to participate in these sectors may only do so by entering into joint venture arrangements with local partners. The foreign partners may take a maximum 35 percent shareholding. The following industries are reserved for Zimbabwean citizens:

Agriculture/Forestry
- a) Primary production of food and cash crops
- b) Primary horticulture
- c) Game, wildlife ranching and livestock
- d) Forestry
- e) Fishing and fish farming
- f) Poultry farming

Transportation
- a) Road haulage
- b) Passenger bus, taxis and car hire services of any kind
- c) Tourist Transportation

-- Retail/wholesale trade, including distribution
-- Barber shops, hairdressing and beauty salons
-- Commercial photography
-- Employment agencies
-- Estate agencies
-- Valet services
-- Manufacturing, marketing and distribution of armaments
-- Water provision for domestic and industrial purposes
-- Rail operations
-- Grain milling
-- Bakery and confectionary
-- Sugar refining
-- Tobacco packaging and grading post auction
-- Cigarette manufacturing

¶6. (U) Foreign investors wishing to start a new project in Zimbabwe must first register with and be approved by the Zimbabwe Investment Authority, which then issues Investment Certificates. This is the first port of call for any investor wishing to invest in Zimbabwe.

¶7. (U) All private firms are required to incorporate and register with the Registrar of Companies within the framework of their investment certificate or exchange control approval. Foreign investment in existing companies requires Reserve Bank approval. Applications are submitted to the Bank's Exchange Control Department through the investor's commercial bank or merchant bank or other authorized dealer. Foreign investors with valid investment certificates may acquire real estate.

¶8. (U) In the mid-1990s, the government identified

privatization of Zimbabwe's parastatal companies as a priority, but only two state-owned enterprises have been successfully privatized since then. The parastatals' operational inefficiencies, weak balance sheet positions and huge debt overhang make it unlikely that privatization will go forward in 2007.

¶9. (U) Commensurate with its anti-West stance in recent years, the government has begun to encourage economic ties with Asian countries, particularly China, as a means of arresting further economic decline and combating what it casts as neo-colonialism. Under this "Look East" policy, selected Asian investors have been offered access to reserved sectors, sometimes at the expense of local or established foreign investors. Despite the official emphasis placed on these ties and a few high profile announced projects, Asian

investment overall remains extremely limited. It does not even compare o the presence of remaining investors from SouthAfrica, the U.K, and U.S., which are far below the levels of the late 1990s.

Conversion and Transfer Policies

¶10. (U) For thepast several years, Zimbabwe has experienced an cute foreign currency shortage that, among other things, has caused crippling shortages of fuel and other imported goods and components, defaults on public and private sector debt service payments, and a sharp decline in industrial, agricultural, and mining operations. Foreign currency is highly difficult to obtain due to the Reserve Bank of Zimbabwe's restrictive exchange controls, the country's declining ability to generate exports, and the lack of balance of payments support. The Foreign Exchange Control Act regulates currency conversions and transfers. It does not prohibit foreign investors from moving assets between Zimbabwean and foreign accounts, but foreign exchange shortages and constraints of the foreign exchange regime impede the remittance of investment returns. Some local businesses have credibly charged that the government has raided their foreign currency accounts to repay past-due IMF debts.

¶11. (U) Exporters may retain 67.5 percent of their foreign currency account balance for their own use indefinitely, while 22.5 percent must be liquidated to the Reserve Bank at the highly disadvantageous interbank exchange rate, fixed at Z$250:US$1 as of July 31 2006 (by comparison, the parallel or market rate is roughly Z$2800:US$1); 10% is allocated to a fuel and energy stabilization fund. However, uncertainties associated with retention requirements and retention periods, which have been adjusted frequently and without notice, constrain business planning and operations.

¶12. (U) The Foreign Exchange Control Act extends to prospective outward investment as well as dividend remittances. Traditionally, the government has discouraged investment by Zimbabweans outside the country, and relatively few Zimbabwean firms have made such investments.

Expropriation and Compensation

¶13. (U) Despite provisions in Zimbabwe's constitution that prohibit the acquisition of private property without compensation, the government has sanctioned seizures of privately owned agricultural land without compensation since
¶2001. Many of the farms seized were subsequently transferred to government officials and other regime supporters. The government in April 2000 amended the constitution to authorize the compulsory acquisition of privately owned commercial farms with compensation limited to the

improvements made on the land. In September 2005, the

government amended the constitution again to transfer ownership of all expropriated land to the government. Since the passage of this amendment, top government officials, ruling party supporters, and members of the security forces have continued to disrupt production on commercial farms, including those owned by foreign investors.

¶14. (U) The President and other politicians have in the past threatened to target the mining and manufacturing sectors for similarly forced &indigenization.8 The government's program to seize commercial farms without either the intention or the funds to compensate the titleholders, and without recourse to the courts, has raised serious questions about respect for property rights and the rule of law in Zimbabwe. In November 2006, the government issued the first batch of 99-year leases to 125 farmers. These leases, however, are not readily transferable as the government retains the right to strip the lease at any time.

Dispute Settlement

¶15. (U) In the event of an investment dispute (excepting the current land reform program), the Government of Zimbabwe agrees in theory to submit the matter for settlement by arbitration according to the rules and procedures promulgated by the United Nations Commission on International Trade Law (UNCITRAL), once the investor has exhausted the administrative and judicial remedies available locally. This option so far appears to be untested by investors. A group of Dutch farmers whose farms were seized under the land reform program has taken the case to the International Centre for the Settlement of Investment Disputes (CISID), demanding that the Zimbabwe Government honor the Bilateral Investment Promotion and Protection Agreement (BIPPA) between the Netherlands and Zimbabwe. The case is scheduled to be heard by a tribunal of arbitrators in mid-2007.

¶16. (U) The government has acceded to the 1965 convention on the settlement of investment disputes between states and nationals of other states, and to the 1958 New York convention on the recognition and enforcement of foreign arbitral awards.

¶17. (U) Government efforts to influence and intimidate the judiciary since the late 1990s have raised serious concerns about investors receiving a fair hearing in local courts. In addition, the government and ruling elite have ignored numerous adverse judgments, and senior officials have reiterated publicly that court orders that are not politically acceptable to the ruling party will not be honored. Administration of justice in those commercial cases that lack political overtones are still generally impartial. As the government's budget constraints deepen, however, court resources have dwindled and dockets have become backlogged. A less costly dispute settlement route, which can be incorporated in contracts between companies, is alternative dispute resolution.

Performance Requirements and Incentives

¶18. (U) Several tax breaks are available for new investment by foreign and domestic companies. Capital expenditures on new factories, machinery, and improvements are fully deductible and the government waives import tax and surtax on capital equipment. Other incentives for investors include:

-Investment allowance of 15 percent in the year of purchase of industrial and commercial buildings, staff housing and articles, implements, and machinery;
-Investment allowance of 50 percent in the year of purchase for training, buildings, and equipment;
-25 percent special initial allowance on cost of industrial buildings and commercial buildings and machinery in growth point areas is granted as a rebate for the first four years;
-Special mining lease provisions entitling the holder to specific incentive packages to be negotiated with the Ministry of Mines;
-Refund of sales taxes (15 percent) for capital goods purchased in Zimbabwe and intended for use in priority projects or investment in growth points.

¶19. (U) There are no general performance requirements outside of Export Processing Zones. Government policy, however, encourages investment in enterprises that contribute to rural development, job creation, exports, use of local materials, and transfer of appropriate technologies.

¶20. (U) There are no discriminatory import or export policies affecting foreign firms, although the government's approval criteria are heavily weighted toward export-oriented projects. Import duties and related taxes range as high as 110 percent. Export Processing Zone designated companies must export at least 80 percent of output.

¶21. (U) While official policy supports "the maximum Zimbabwean participation" in any new investment project, no specific requirements for local participation have been defined outside the 35 percent foreign share cap in sectors reserved for local investment. Nevertheless, experience has shown that 30 percent local participation is a widely accepted benchmark minimum.

¶22. (U) Government participation is required in new investments in strategic industries, such as energy, public water provision, railways, and armaments. The terms of government participation are determined on a case-by-case basis during license approval. The few foreign investors (for example from China and Iran) in reserved strategic industries have either purchased existing companies or have supplied equipment and spares on credit.

¶23. (U) Foreign investors are expected to make maximum use of Zimbabwean management and technical personnel, and any investment proposal that involves the employment of

expatriates must present a strong case for doing so in order to obtain a work and residence permit. Normally, the maximum contract period for an expatriate is three years, but this will be extended to five years for expatriates with highly specialized skills. Expatriates who have prior permission from the Reserve Bank's exchange control department are permitted to remit one-third of their salaries.

Right to Private Ownership and Establishment

¶24. (U) Although Zimbabwean law guarantees the right to private ownership, this right is increasingly not respected in practice. The government, as noted above, has in recent years seized a number of private farms and conservancies, including ones belonging to Americans and other foreign investors, without due process or compensation. Most of these property owners held Zimbabwe Investment Center investment certificates and purchased their land after independence in 1980. Despite repeated U.S. protests, the government has not addressed the expropriation of U.S. citizen property.

¶25. (U) In each of the last three years, President Mugabe

has reiterated the government's intention to enact a broad indigenization law, and there remains a lingering threat that the government could expropriate non-agricultural property belonging to foreign firms for the purpose of transferring ownership to black Zimbabweans.

Protection of Property Rights

¶26. (U) The government's demonstrated desire to expand its control of the economy puts many investments, particularly in real property, at risk. The government's 2005 Operation Restore Order resulted in the destruction of commercial and residential structures belonging to 700,000 Zimbabweans, according to UN estimates. Many of these properties had proper titles and licenses. Although Operation Restore Order officially ended in 2005, the government continued to evict smaller numbers of people from their homes and businesses, primarily in and around Harare, in 2006. In addition to the thousands of agricultural properties seized under land reform during the past six years, in late 2005, the government for the first time authorized the seizure of non-agricultural land for the purpose of constructing residential stands in a Harare suburb.

¶27. (U) Since independence, Zimbabwe has applied international patent and trademark conventions. It is a member of the World Intellectual Property Organization. Generally, the government seeks to honor intellectual property ownership and rights, although there are serious doubts about its ability to enforce these obligations due to a lack of expertise and manpower. We are not aware of any grievances over such issues, but pirating of videos and

computer software is common. Most videos and computer software sold on the local market, for example, are pirated goods.

¶28. (U) The judiciary generally upholds the sanctity of contracts between private companies. However, in the case of contracts involving the government or politically influential individuals, judgments sometimes appear biased in favor of the latter.

Transparency of the Regulatory System

¶29. (U) The government's officially stated policy is to encourage competition within the private sector. That said, bureaucratic functions in this increasingly controlled economy lack transparency and corruption within the regulatory system is increasingly worrisome.

¶30. (U) Companies, for example, are not allowed to increase the price of monitored goods without government approval. However, the responsible Ministry often fails to process price increase requests in a timely and transparent way. In November 2006, two company executives from one of Zimbabwe,s major bakeries were convicted and face jail sentences for raising the price of bread without authorization.

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Efficient Capital Markets and Portfolio Investment
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¶31. (U) New portfolio investment in Zimbabwe has been very limited in recent years. According to the IMF, net portfolio inflows reached US$2 million in 2004 after a massive outflow of US$68 million in 2001 in response to the start of the land invasions. Despite mounting economic problems, foreign direct investment (FDI) inflows to Zimbabwe during 2005 amounted to US$103 million according to the World Investment Report compiled by the United Nations Conference on Trade and

Development (UNCTAD). Zimbabwe,s Ministry of Finance projects net inflows of US$298 million in 2006; the investment is primarily in the platinum industry.

¶32. (U) Zimbabwe's stock market has 83 listed companies. Overall, trading is thin and volatile. The public stock of many smaller companies is closely held. In September 1996, the government opened the stock and money markets to limited foreign portfolio investment. Since then, a maximum of 40 percent of any locally listed company can be foreign-owned with a single investor acquiring a maximum of 10 percent of the shares on offer. In 2005, the government introduced a 5 percent withholding tax on the sale of marketable securities. It also directed short term insurance companies, long term insurance companies as well as pension funds to invest 25 percent, 30 percent and 35 percent, respectively, of their portfolios at market value in government bonds which are prescribed assets with highly negative real interest rates. In order to meet these new requirements pension funds were

required from November 2004 to direct 40 percent of net investment funds on a monthly basis towards prescribed assets.

¶33. (U) Once relatively robust by regional standards, Zimbabwe's financial sector has contracted greatly in recent years as business and demand for sophisticated transactions evaporates. Two major international commercial banks and a number of regional and domestic banks operate with over 200 branches total. Following the well-publicized failure of a number of financial institutions in 2003, primarily due to fraud and inept management, Reserve Bank regulations have tightened greatly. Nonetheless, financial institutions have an uncertain future due to ever-dwindling demand from business clients and inconsistent policies on interest rates, statutory reserves, and exchange rate policies.

Political Violence

¶34. (U) The opposition and civil society operate in an environment of intimidation and repression. Individuals and companies out of favor with the government or regarded by the government as aligned with the opposition, suffer harassment and bureaucratic obstacles in their business dealings. The government has closed three independent newspapers, for example, and has denied numerous telecommunications licenses for apparently political reasons. Domestic businesspeople out of favor with the government have been incarcerated for lengthy periods under trying conditions, including alleged torture, for allegedly engaging in illegal business practices such as externalization of currency.

¶35. (U) In April 2005, with no notice and in the middle of the country,s winter, the GOZ embarked upon Operation Restore Order, destroying the purportedly unpermitted homes, businesses, or both, of over 700,000 people. Police demolished or forced victims to destroy their own homes and businesses, many of which did appear to have all relevant permits, without providing alternative accommodation or means of reestablishing their livelihoods. The government then blocked the efforts of NGOs and international organizations to provide emergency relief. Although Operation Restore Order formally came to an end in 2005, the government in 2006 periodically evicted residents and business-owners from properties that were deemed substandard.

¶36. (U) In August 2006, the Reserve Bank redenominated the inflation-ridden currency, slashing three zeros from its value. As part of the redenomination regulations, the public and business were allowed to convert only set amounts at financial institutions. Police extended this prohibition to the general cash-carrying public, although there was no regulatory or legal basis for limiting the amount of cash one

carried. Police, military, and youth militia aligned to the ruling party mounted roadblocks throughout the country and seized cash, deemed to be in an "excessive" amount, from individuals. Often no receipts were issued for the seized

cash, leaving no recourse to protest the seizures.

Corruption

¶37. (U) There is widespread corruption in government. Implementation of the government's ongoing redistribution of expropriated commercial farms has substantially favored the ruling party elite and continues to lack transparency. Top ruling party officials and business people supporting the ruling party have received priority in distribution of the country's resources, including priority access to limited foreign exchange and fuel. The government's campaign to provide housing plots and vending sites for victims of Operation Restore Order appears to be benefiting mostly civil servants, security forces, and ruling party supporters.

¶38. (U) In January 2005 the government enacted an Anti-Corruption Act, which established a government-appointed Anti-Corruption Commission to investigate corruption; however, it includes no members from civil society or the private sector. In the same month, the Ministry of State Enterprises, Anti-Monopolies, and Anti-Corruption was established to oversee and coordinate the government's efforts to combat corruption; however, government officials and police lack sufficient political backing at senior levels of the government to effectively investigate cases. The government prosecutes individuals selectively, focusing on those who have fallen out of favor with the ruling party and ignoring transgressions by favored elite.

Bilateral Investment Agreements

¶39. (U) The U.S. has no bilateral investment or trade treaty with Zimbabwe. The following countries have Bilateral Investment Protection and Promotion Agreements with Zimbabwe: France, Mauritius, Belgium, Sweden, the Netherlands, Denmark, Norway, Italy, Austria and Germany. However, as noted above, commercial farms covered by some of the treaties have been seized or listed for acquisition, thereby denying the owner benefits under these treaties.

OPIC and Other Investment Insurance Programs

¶40. (U) The U.S. Government and Zimbabwe concluded an OPIC agreement in April 1999. Zimbabwe acceded to the World Bank's Multilateral Investment Guarantee Agency (MIGA) in September
¶1989. Support by the Export-Import Bank of the U.S. is not available to Zimbabwe. Many other major donor countries have also suspended their trade finance and export promotion programs, as well as investment insurance, due largely to Zimbabwe's mounting bilateral arrears and deteriorating investment climate.

Labor

¶41. (U) Zimbabwe's interconnected economic and political crises have prompted many of the country's most skilled and well educated to emigrate, leading to widespread labor

shortages for managerial and technical jobs. At the same time, the severe contraction of the economy in recent years has caused formal sector employment to drop significantly. The best available surveys place formal sector unemployment as high as 80 percent. Independent analysts estimate that only about 700,000 people, or roughly 7 percent of Zimbabwe,s population, are employed in the formal sector. As noted above, foreign investors are encouraged to hire local nationals.

¶42. (U) The country's HIV/AIDS epidemic is also taking a heavy toll on the workforce. However, with substantial support from the U.S. Government and other donors, Zimbabwe has instituted policies that have contributed to reducing the adult infection rate from 22.1 percent in 2003 to 20.1 percent in 2005, making Zimbabwe only the second country in Sub-Saharan Africa to stem the disease's tide.

¶43. (U) The government is a signatory to International Labor Organization (ILO) conventions protecting worker rights, although the world body has designated Zimbabwe as a "notorious country" for its continued attempts to limit workers' right to organize and hold labor union meetings. The 1985 Labor Relations Act set strict standards for occupational health and safety, but enforcement is fairly lax and inconsistent across the industrial sectors.

¶44. (U) In light of the hyperinflationary environment (private sector estimates put the annualized inflation rate close to 2,000 percent), employers and workers have agreed to negotiate wages and other benefits on a quarterly and monthly rather than annual basis. Collective bargaining takes place through a National Employment Council (NEC) in each industry, comprising representatives from labor, business, and government. In addition, the Zimbabwe Congress of Trade Unions (ZCTU), the country's umbrella labor organization and traditional advocate for workers to both business and government. In addition, a Tripartite Negotiating Forum (TNF) was established in 2001 for labor, business, and government to tackle macro-social issues. However, these talks have been fitful and unproductive since their inception. The most recent impasse for the TFN is that business and labor cannot agree on indexing wages to the poverty datum line (PDL), which calculates the minimum required for a family of six to pay basic expenses. Independent economists estimate that roughly 80 percent of Zimbabwe's population lives below the PDL.

¶45. (U) The government continued its harassment of the ZCTU and its leadership, and has charged ZCTU officials with violating foreign exchange controls. In September, police severely beat and arrested 15 ZCTU officials for

demonstrating against mounting economic hardships. Under Zimbabwe labor law, the government can intervene in ZCTU's internal affairs if it determines that the leadership is not acting in the workers' interest. The government has threatened to eliminate the ZCTU, and has taken steps to marginalize the traditional unions and the formal labor dispute resolution mechanism. To undercut the strength of ZCTU, the government has created an alternative umbrella organization, the Zimbabwe Federation of Trade Unions (ZFTU). However, outside of government, the ZFTU is not regarded as a legitimate labor organization. The ZCTU remains the voice of labor in Zimbabwe and the country's official and internationally recognized labor organization.

Foreign-Trade Zones/Free Ports

¶46. (U) The government promulgated legislation creating Export Processing Zones (EPZs) in 1996. Zimbabwe now has 183 EPZ-designated companies. Benefits include a five-year tax holiday, duty-free importation of raw materials and capital

equipment for use in the EPZ, and no tax liability from capital gains arising from the sale of property forming part of the investment in EPZs. Since January 2004 the government has generally required that foreign capital comprise a majority of the investment. The requirement on EPZ-designated companies to export at least 80 percent of output has constrained foreign investment in the zones. In 2006, the merger began of the Zimbabwe Investment Centre and the Zimbabwe Export Processing Zones Authority into a new institution - the Zimbabwe Investment Authority, which is intended to be a one-stop shop for both local and foreign investors.

Foreign Direct Investment Statistics

¶47. (U) Zimbabwe Net Investment Flows 1998-2005 in Million US$

	1998	1999	2000	2001	2002	2003	2004	2005	2006 est.
Direct Investment	436	50	16	0	23	4	9	103	298
Portfolio Investment	11	21	-1	-68	-2	4	2		

Source: IMF, UNCTAD, Ministry of Finance

Resources

¶48. (U)
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